

State of New Jersey  
Department of Labor and Workforce Development  
Board of Review

## MEMORANDUM

**To:** Cornelia Calderone, Chair, Joseph Sieber,  
Vice Chairman, and Frank Serico, Member

**From:** Sarah Barnwell, Appellate Specialist  
Board of Review

**Subject:** Minutes of the April 5, 2006  
Board of Review Meeting

**Date:** April 6, 2006

THESE MINUTES HAVE NOT BEEN FORMALLY APPROVED AND ARE SUBJECT TO  
CHANGE OR MODIFICATION BY THE BOARD OF REVIEW AT ITS NEXT MEETING.

1. **FORMAL OPENING:** A regular meeting of the Board of Review, Department of Labor was held on Wednesday, April 5, 2006 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7<sup>th</sup> Floor, Large Conference Room, Trenton, New Jersey. Notice of said meeting was posted in the Board of Review's office, filed with the Secretary of State, and published annually in The Trenton Times and The Star Ledger. It was noted that the next regular meeting of the Board of Review is scheduled for Wednesday, April 12, 2006 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7<sup>th</sup> Floor, Large Conference Room, Trenton, New Jersey.

Roll Call: Present: Mr. Sieber, Vice Chair  
Mr. Serico, Member  
Ms. Barnwell, Appellate Specialist  
Absent: Ms. Calderone, Chair  
Mr. Yarbrough, Executive Secretary

2. Following a motion by Mr. Serico and seconded by Mr. Sieber, the minutes of the March 29, 2006 meeting were approved.

3. Old Business

(a) 96,606

Mr. Serico reviewed the record and reported his findings on this case that involved a service representative who was discharged for accessing information from a government computer without authorization. The Appeal Tribunal had held the claimant disqualified for gross misconduct under N.J.S.A. 43:21-5(b). Following discussion, the Board noted that the claimant pled guilty to the charge brought against her and that she received three years' probation for the offense. The Board decided that the reason for the claimant's discharge constituted gross misconduct and voted to affirm

the decision of the Appeal Tribunal. Mr. Gitter will prepare a memo to be sent to the chief of Benefit Payment Control regarding the claimant's receipt of benefits for a period she was awarded back pay.

**(b) 94,539**

Mr. Sieber reviewed the record and reported his findings on this case that involved an assistant general manager who allegedly, after his position was eliminated, refused to accept a comparable position because he wanted to continue his education. The Appeal Tribunal had held the claimant disqualified under N.J.S.A. 43:21-5(c). Following discussion, the Board noted that there was insufficient evidence to determine whether N.J.S.A. 43:21-5(a) or N.J.S.A. 43:21-5(c) was applicable. The Board voted to remand the matter for a complete record. Mr. Gitter will prepare the remand.

**4. New Business**

**(a) 82,262**

Ms. Gagliardo presented this case that involved a claimant who received benefits under the Disability During Unemployment program and who objected to a lien placed against future workers' compensation awards. The Appeal Tribunal had held that Disability During Unemployment was within its right to impose the lien. Following discussion, the Board noted that the claimant had agreed to the reimbursement of DDU benefits duplicated by workers' compensation. The Board voted to affirm the decision of the Appeal Tribunal.

**(b) 94,282**

Ms. Gagliardo presented this case that involved a field service representative who was terminated for not returning to work at the expiration of a leave of absence. The Appeal Tribunal had held the claimant not disqualified under N.J.S.A. 43:21-5(a) or N.J.S.A. 43:21-5(b). Following discussion, the Board noted that the claimant did not intend to leave the job and that his failure to return to work or communicate with the employer immediately following the expiration of his leave was a result of a miscommunication. The Board voted to affirm the decision of the Appeal Tribunal.

**(c) 94,056**

As presented by Ms. Abrunzo, this case involved a truck driver who was discharged because his driver's license was suspended for violations that occurred prior to his date of hire. The Appeal Tribunal had held the claimant disqualified under N.J.S.A. 43:21-5(a) and liable for the repayment of benefits received. Following discussion, the Board voted to affirm the decision of the Appeal Tribunal.

(d) 84,259

Ms. Abrunzo presented this case that involved a pharmacist who was discharged for failing to inform the employer of his prior personal involvement with drugs. The Appeal Tribunal had held the claimant disqualified under N.J.S.A. 43:21-5(b). Following discussion, the Board noted that there was insufficient evidence to establish whether the claimant violated the “pharmacy creed” and voted to remand the matter for a complete record. Ms. Abrunzo will prepare the remand.

There being no further business to transact, a motion was made by Mr. Sieber to adjourn the meeting. Mr. Serico seconded the motion.

SUBMITTED FOR APPROVAL:

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Sarah Barnwell  
Appellate Specialist